

IN THE DISTRICT COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN

CORAL WORLD (V.I.), INC.,)	
)	
Plaintiff,)	
)	
v.)	
)	Civ. No. 1995-183
HAROLD ROSS, KORNREICH NIA,)	
ST. PAUL SURPLUS LINES INS. CO.,)	
INC.,)	
)	
Defendants.)	

APPEARANCES:

Samuel H. Hall, Jr., Esq.
St. Thomas, U.S.V.I.
For the plaintiff,

R. Eric Moore, Esq.
St. Thomas, U.S.V.I.
For the defendant St. Paul Surplus Lines Ins., Co.

MEMORANDUM

Moore, J.

This matter is before the Court on Coral World (V.I.), Inc.'s ["Coral World"] motion to reconsider the Court's Memorandum and Order of July 13, 1999, granting summary judgment to St. Paul Lines Insurance Company's ["St. Paul"], and on St. Paul's motion for taxation of costs and fees. Because Coral World's arguments offer nothing new in the way of evidence or arguments, the Court will deny the motion to reconsider. Further, the Court will grant in part St. Paul's motion for costs

and fees.

A. Motion to Reconsider

"A motion for reconsideration serves to 'correct manifest errors of law or fact or to present newly discovered evidence.'" See *Bluebeard's Castle, Inc. v. Delmar Mktg., Inc.*, 32 V.I. 278, 284 (D.V.I. 1995) (quoting *Harsco v. Zlotnicki*, 779 F.2d 906, 909 (3d Cir. 1985)). "Manifest" means "obvious to the understanding, evident to the mind." See BLACK'S LAW DICTIONARY at 962 (6th ed. 1991). Coral World's motion contains no allegations of newly discovered evidence or manifest errors of fact or law. It does make numerous allegations that the Court "ignores the facts," and "ignores the law," but the sheer number of these allegations obscures and belies any manifestness in Coral World's claims.

It seems, instead, that Coral World's motion for reconsideration merely reargues the original motion and cross-motion for summary judgment. "'[N]either Rule 59 nor a Rule 60 motion provides the proper vehicle for rehashing old arguments.'" See *Bluebeard's Castle*, 32 V.I. at 279 (quoting *Resolution Trust Corp. v. Holmes*, 846 F. Supp. 1310 (S.D. Tex. 1994)). The Court will deny the motion for reconsideration.

B. Motion for Taxation of Costs and Fees

St. Paul seeks to recover fees and costs as a prevailing party. In all, it seeks to recover \$13,003.30 in costs and \$76,051.25 in attorneys' fees. Coral World has not opposed the motion.

1. Costs

Under the Virgin Islands Code, a court may award a prevailing party in a civil action costs in prosecuting or defending an action, including:

- (1) Fees of officers, witnesses, and jurors;
- (2) Necessary expenses of taking depositions which were reasonably necessary in the action;
- (3) Expenses of publication of the summons or notices, and the postage when they are served by mail;
- (4) Compensation of a master as provided in Rule 53 of the Federal Rules of Civil Procedure;
- (5) Necessary expense of copying any public record, book, or document used as evidence on [sic] the trial; and
- (6) Attorney's fees as provided in subsection (b) of this section.

V.I. CODE ANN. tit. 5, § 541(a). Most of the costs St. Paul seeks to recover are travel expenses associated with depositions. Although section 541(a)(2) generally permits recovery for necessary costs associated with depositions, it does not include travel costs, and the Court will deny any recovery for travel costs. See *Jo-Ann's Launder Ctr., Inc. v. Chase Manhattan Bank*, 31 V.I. 226, 236 (D.V.I. 1995) (quoting *Hensley v. Eckerhart*, 461 U.S. 424 (1983)) ("travel costs for taking depositions are not recoverable absent special circumstances"). The remainder of St.

Paul's costs are reimbursable. Accordingly, St. Paul will be granted \$5,047.29 in costs: the requested amount of \$13,003.30, less travel related expenses of \$7,956.01.

2. Attorney's Fees

In addition to costs, the Court may award attorneys' fees to the prevailing party. 5 V.I.C. § 541(b) ("The measure and mode of compensation of attorneys . . . shall be allowed to the prevailing party in the judgment such sums as the court in its discretion may fix by way of indemnity for his attorney's fees in maintaining the action or defenses thereto; . . ."). The decision of whether and to what extent fees should be awarded is within the court's discretion. *Id.*; see also *Jo-Ann's Launder Ctr.*, 31 V.I. at 233. St. Paul seeks reimbursement for 385.1 hours of time expended by its attorney, R. Eric Moore (\$200/hr), and two other individuals, FGQ (\$150/hr) and MJM (\$75/hr), whose occupations are not stated in St. Paul's affidavit for costs and attorneys' fees, but whose hourly rates correlate to a statement in the affidavit that "the hourly billing rate . . . was . . . \$150.00 for associates, and \$75.00 for paralegals." (See Aff. Costs and Att'ys' Fees at 15). Because St. Paul has advanced no authority for the inclusion of paralegal fees, the Court will not award fees for the paralegal, "MJM."

In determining the "lodestar," or initial valuation of an

attorney's services, the Court will consider the number of hours spent on the case and the reasonable hourly rate. The Court's "assessment of the reasonable number of hours expended must focus on 'the significance of the overall relief obtained by the plaintiff in relation to the hours reasonably expended on the litigation.'" *Jo-Ann's Launder Ctr.*, 31 V.I. at 234 (quoting *Hensley v. Eckerhart*, 461 U.S. 424 (1983)). In this matter, St. Paul sought and received summary judgment in its favor. Many legal services performed substantially contributed to the eventual outcome, to wit, dismissal of St. Paul from the case. Others, however, which involved St. Paul's third-party complaint were not related to the summary judgment motion and cross-motion. Accordingly, the Court will exercise its discretion and reduce the award of fees by one-half. See *Jo-Ann's Launder Ctr.*, 31 V.I. at 235 (reducing award for fees by percent of legal services not contributing to final outcome).

Further, several of the entries on the affidavit combine "preparation for" and "travel to" on a single line. St. Paul presents no authority for awarding attorneys' fees for their travel time, therefore, the Court will again exercise its discretion and halve the amounts contained in these entries.

St. Paul requested \$76,051.25 in attorneys' fees. The Court will first deduct the fees of paralegals (\$198.75) to arrive at

\$75,852.50 in attorneys' fees. The Court will reduce this by one-half the total amount contained in entries which combine travel with other services (one-half of \$29,000), leaving \$61,352.5. The Court will finally reduce this sum by one-half to account for time spent pursuing the third-party complaint, leaving \$30,676.25 in attorneys' fees, which it will award to St. Paul.¹

ENTERED this 15th day of September 2000.

FOR THE COURT:

_____/s/_____
Thomas K. Moore
District Judge

¹ The Court will not adjust this "lodestar" amount upward or downward based on the contingent nature of St. Paul's success and the quality of counsel's work. This matter was not unusually complicated, and the roughly \$30,000 awarded is adequate compensation for counsel's work.

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R. Eric Moore, Esq.
St. Thomas, U.S.V.I.
For the defendant St. Paul Surplus Lines Ins., Co.,

ORDER

Moore, J.

THIS MATTER came before the Court on the following motions:
(1) Coral World's motion for reconsideration, and (2) St. Paul's
motion for taxation of costs and fees.

For the reasons disclosed in the Memorandum Opinion of even
date, it is hereby

ORDERED that Coral World's motion for reconsideration is

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DENIED; it is further

ORDERED that St. Paul's motion for costs and fees is **GRANTED** in the amount of \$7,956.01 in costs, and \$30,676.25 in attorneys' fees.

ENTERED this 15th day of September 2000.

FOR THE COURT:

_____/s/_____
Thomas K. Moore
District Judge

ATTEST:
ORINN ARNOLD
Clerk of the Court

By: _____
Deputy Clerk

Copies to:

Hon. G.W. Barnard
Samuel H. Hall, Jr., Esq.
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Susan Bruch Moorhead, Esq.
Stephen C. Cunningham, Esq.
Mrs. Trotman
Jeffrey H. Jordan